

# Senate Daily Reader

# Wednesday, February 23, 2005

[illegible]

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

832L0579

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1160** - 02/17/2005

Introduced by: Representatives Murschel, Boomgarden, Cutler, Krebs, Kroger, Schafer, Sebert, and Street and Senators Broderick, Abdallah, Kelly, Koetzle, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to franchises and cable  
2 services.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 9-35 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Terms used in this Act mean:

7 (1) "Cable operator," any person who provides cable service over a cable system;

8 (2) "Cable service," the one-way transmission to subscribers of video programming or  
9 other programming service and the subscriber interaction, if any, which is required  
10 for the selection or use of such video programming or other programming service;

11 (3) "Cable system," a facility consisting of a set of closed transmission paths and  
12 associated signal generation, reception, and control equipment that is designed to  
13 provide cable service to multiple subscribers within a community. The term does not  
14 include a facility that serves subscribers without using the public right-of-way; a



1 facility of a telecommunications company that provides telecommunications service  
2 as defined and regulated by chapter 49-31, except to the extent that the facility is used  
3 to transmit video programming directly to subscribers, unless the extent of such use  
4 is solely to provide interactive on-demand services;

5 (4) "Franchise," an authorization, established by ordinance, issued by a franchising  
6 authority, which authorizes the construction and operation of a cable system;

7 (5) "Franchising authority," a municipality;

8 (6) "Other programming service," information that a cable operator makes available to  
9 all subscribers generally;

10 (7) "Public, educational, or governmental access facilities," channel capacity designated  
11 for public, educational, and governmental use and the facilities and equipment for the  
12 use of such channel capacity; and

13 (8) "Video programming," programming provided by, or generally considered  
14 comparable to programming provided by, a television broadcast station.

15 Section 2. That chapter 9-35 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 A franchising authority may require a franchise of any cable operator for the operation of  
18 a cable system within its jurisdiction. The exercise of such authority shall be pursuant to an  
19 ordinance detailing the basic requirements for a franchise and the terms and conditions for any  
20 other contractual arrangement thereafter deemed appropriate and consistent with this Act and  
21 federal law.

22 Section 3. That chapter 9-35 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 A franchising authority may grant one or more additional franchises to other cable operators

1 under terms that are not substantially more favorable than that which the cable operator  
2 designated by section 2 of this Act is required to meet. The terms that may not be substantially  
3 more favorable are with regard to right-of-way access; public, educational, or governmental  
4 access facilities requirements; and franchise fees.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

761L0679

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1194** - 02/07/2005

**This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives O'Brien, Garnos, and Rounds and Senator Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to require notification to certain retail licensees of  
2 prohibited alcohol sales to persons below the age of twenty-one prior to any subsequent  
3 violation.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 35-2 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Any enforcement entity that conducts compliance checks using underaged informants to  
8 determine if a licensee will sell an alcoholic beverage to a person under the age of twenty-one  
9 must inform the licensee in writing of the results of any such compliance check within forty-  
10 eight hours after the compliance check takes place.

11 Section 2. That § 35-2-10.1 be amended to read as follows:

12 35-2-10.1. No retail license may be revoked or suspended because of a violation of any  
13 statute, ordinance, rule, or regulation prohibiting the sale or service of any alcoholic beverage  
14 to a person under the age of twenty-one years if the violation was committed by an employee  
15 or agent of the licensee and the licensee has not had more than two violations of any statute,



1 ordinance, rule, or regulation prohibiting the sale or service of an alcoholic beverage to a person  
2 under the age of twenty-one years on the premises where the violation occurred in the previous  
3 twenty-four months.

4 If the licensee meets the requirements of the conditions provided by this section, the  
5 secretary shall impose a civil penalty of five hundred dollars for a first violation and one  
6 thousand dollars for a second violation. However, if the employee or agent has not been certified  
7 by a nationally recognized training program approved by the Department of Revenue that  
8 provides instruction on techniques to prevent persons under the age of twenty-one years from  
9 purchasing or consuming alcoholic beverages, the secretary shall impose a civil penalty of one  
10 thousand dollars for a first violation and two thousand dollars for a second violation.

11 A violation of any statute, ordinance, rule, or regulation prohibiting the sale or service of any  
12 alcoholic beverage to a person under the age of twenty-one years occurring within forty-eight  
13 hours of commencement of a compliance check as provided in section 1 of this Act shall be  
14 considered to be a first violation for purposes of this section. However, except for purposes of  
15 corroboration, at no time may more than one underaged informant be used in any compliance  
16 check in any forty-eight hour period.

17 A licensee may request an administrative hearing pursuant to chapter 1-26 to contest the  
18 imposition of a civil penalty.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

735L0735

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB 1203** - 02/03/2005

Introduced by: Representatives Murschel and Wick and Senator Earley

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the distribution of the  
2 tax imposed on financial institutions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-43-77 be amended to read as follows:

5 10-43-77. The county treasurer upon receipt of ~~such~~ the funds, remitted to the county  
6 pursuant to § 10-43-76, shall apportion and distribute the funds between the taxing subdivisions,  
7 including the county, in the same proportion as the average of personal property taxes assessed  
8 in each taxing subdivision, including the county, for calendar years 1972, 1973, 1974, 1975, and  
9 1976 were distributed as determined and certified by the secretary of revenue and regulation.

10 ~~For school districts operating during the years 1972 to 1976, inclusive, that reorganize, the~~  
11 ~~funds shall be apportioned and distributed to the successor districts in the same manner and~~  
12 ~~proportion as they were distributed prior to reorganization. For any school district affected by~~  
13 a consolidation on or after July 1, 2003, as defined in § 13-6-1, the successor school district  
14 shall receive the funds allocated to each of the former school districts. For any school district  
15 eliminated or subdivided by a reorganization on or after July 1, 2003, as defined in § 13-6-1,



1 each successor school district shall receive a portion of the funds allocated to the former school  
2 district. Each successor school district's portion of the funds shall be based upon the percentage  
3 of the total taxable valuation of the former school district transferred to the successor school  
4 district, at the time of the reorganization.